

REMARKS

I. Status of the Claims

At the time of the Action, Claims 1-32 were pending. Claims 1-2, 6-9, 25-26, and 29-32 stand rejected under Section 102(e) as anticipated by U.S. Patent No. 6,561,960 to Webber (Webber). Claims 3-5, 10-24, and 27-28 stand rejected under Section 103(a) as unpatentable over Webber.

Claims 1, 10, 17 and 25 have been amended hereinabove to more precisely recite the subject matter of the present invention. The remarks hereinbelow respond to the Examiner's objections. As such, Applicants submit that the present application is in condition for allowance.

II. The Section 102(e) Rejections

The Action rejects Claims 1-2, 6-9, 25-26, and 29-32 under Section 102(e) as anticipated by Webber. The Action at page 2-3 asserts that Webber discloses

a frame, a movement arm (28) pivotally attached to the frame and movable along a generally longitudinal stroke path between a forward and rearward position, a resistance imparting unit (weights) operatively connected with the movement arm to provide resistance, a pair of handles (44) to be grasped by the user, a pair of extension members (41), each of which is attached to a respective handle such that each handle is free to rotate about a longitudinal axis of the extension member, wherein the extension members are attached to the movement arm such that each extension member is free to rotate relative to the movement arm about vertical, longitudinal, and transverse axes, and wherein the extension members are of sufficient length and the extension members are attached to the movement arms so that the handles can be separated by a distance of at least 24 inches when the movement arm is in the rearward position. (Flexibility of extension members allow for any distance between handles).

Applicants respectfully direct the Examiner's attention to amended Claims 1, 10, 17 and 25, which now recite, *inter alia*, that the extension members are rigid, and that the handles are free to rotate relative to the extension members about the longitudinal axes of

their corresponding extension members. **Figures 3 and 4** of Webber make it clear that the straps **41** therein are flexible rather than rigid, so this element of the claims is not met. Moreover, the handles **44** of Webber are not attached to the "extension member" such that they are free to rotate relative to the extension members about the longitudinal axes of the extension members. Instead, the grips are simply attached to the remainder of the handle, which flexes in torsion about itself as the exerciser rotates the grip **44**. Consequently, Webber fails to satisfy this element of the claims as well.

Because Webber fails to disclose or even to suggest all of the elements of Claims 1, 10, 17 and 25, Applicants submit that a Section 102(e) rejection is improper. As such, Applicants respectfully request that this rejection be withdrawn.

III. The Section 103(a) Rejections

The Action rejects Claims 3-5, 10-24, and 27-28 under Section 103(a) as unpatentable over Webber. The Actions asserts that the subject matter recited in those claims is obvious, once Webber has disclosed the claimed structural limitations.

For at least the reasons cited hereinabove, however, Webber fails to disclose the "structural limitations" of Claims 1, 10, 17 and 25. Specifically, Webber fails to disclose a rigid extension member or handles that are free to rotate relative to the extension members about the longitudinal axes of their corresponding extension members. Furthermore, there is no suggestion or motivation in Webber to incorporate rigid extension members in the place of the straps **41** therein. Therefore, Applicants respectfully submit that the rejections under Section 103(a) should be withdrawn as well.

IV. Conclusion

Inasmuch as all of the outstanding issues raised in the Action have been addressed, Applicants respectfully submit that the application is in condition for allowance, and request that it be passed to allowance and issue.

Respectfully submitted,

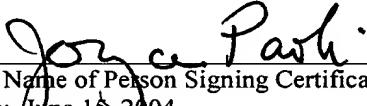


David D. Beatty
Registration No. 38,071

Myers Bigel Sibley & Sajovec, P.A.
Post Office Box 37428
Raleigh, NC 27627
Telephone (919) 854-1400
Facsimile (919) 854-1401

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-145 on June 15, 2004.

Signature: 
Typed or Printed Name of Person Signing Certificate: Joyce Paoli
Date of Signature: June 15, 2004